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Question of the Falkland Islands (Malvinas)

Letter dated 22 February 2012 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

In accordance with instructions received from the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honour to refer to the letter dated 10 February 2012 from the Chargé d'affaires a.i. of the Permanent Mission of Argentina to the United Nations addressed to you (A/66/696-S/2012/86), transmitting in annex a presentation delivered by the Minister for Foreign Affairs of the Republic of Argentina that accuses the United Kingdom of "militarization" of the South Atlantic.

The United Kingdom unequivocally rejects these unfounded assertions. The United Kingdom had a minimal military presence in the South Atlantic prior to the Republic of Argentina's illegal invasion of the Falkland Islands in 1982. The Republic of Argentina did not abide by the Security Council resolutions in 1982 calling on it to withdraw its forces peacefully, and it had to be forcibly removed. The United Kingdom military presence increased after 1982 owing to the direct and continued threat posed to the Islands and its people by the Republic of Argentina. Since then, the United Kingdom has maintained a presence designed solely to reassure and protect the Falkland Islanders' rights to determine their own political, economic and cultural futures.

The United Kingdom does not have a network of military bases across the South Atlantic. The United Kingdom has no military bases in the islands of Saint Helena, Tristan da Cunha or South Georgia and the South Sandwich Islands. In contrast to the Republic of Argentina, the United Kingdom maintains no military bases in Antarctica. British Antarctic bases are strictly for civilian and scientific purposes. With the United Kingdom's permission, the United States of America first built a military airfield on Ascension Island during the Second World War and still maintains it today. The United Kingdom hardly used the military airfield on Ascension until the Republic of Argentina illegally invaded the Falkland Islands in 1982. It is now used as a staging post for air movements between the United Kingdom and the Falkland Islands.

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The United Kingdom rejects the baseless assertion that it seeks to control maritime and air traffic across the South Atlantic. The United Kingdom fully respects the right of all vessels to innocent passage through territorial waters and freedom of navigation in waters beyond, in full compliance with international law, including the United Nations Convention on the Law of the Sea. The United Kingdom does not seek to impose any restrictions on civilian aircraft transiting its airspace, in full compliance with international law. In contrast, the Republic of Argentina has attempted to restrict maritime traffic in the South Atlantic under Argentine Presidential Decree 256, has banned some flagged vessels from its ports, and has since 2003 banned charter aircraft travelling to/from the Falkland Islands when transiting Argentine airspace.

The Republic of Argentina's suggestion that the United Kingdom is seeking to threaten militarily either the Republic of Argentina or the wider region is entirely without foundation. The Government of the Republic of Argentina has suggested that it has evidence of a deployment of a Vanguard-class submarine into the South Atlantic. As the Republic of Argentina knows, it is the United Kingdom's long-established policy never to comment on submarine operations. With regard to nuclear weapons, however, the United Kingdom's position is clear. The United Kingdom ratified the Protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (the Treaty of Tlatelolco) in 1969, and it fully respects these obligations. The United Kingdom position on its nuclear deterrent is unambiguous: the United Kingdom will not use — or threaten to use — nuclear weapons against non-nuclear-weapon States parties to, and in compliance with, the Treaty on the Non-Proliferation of Nuclear Weapons.

The United Kingdom undertakes routine military exercises of short-range anti-aircraft missiles approximately every six months on the Islands. It has done so since they were deployed there in response to the Republic of Argentina's invasion of the Falkland Islands in 1982. The Republic of Argentina has been aware of these exercises for many years. The Republic of Argentina decided only in 2010 that it wished to protest to the International Maritime Organization (IMO) about these exercises. The United Kingdom wrote to the IMO Secretary-General in January 2011 outlining its position, its notification procedure and its exemplary safety record, and reiterated that safety of life at sea had not been put at risk by these exercises. Despite the Republic of Argentina's attempts to portray these missiles as posing a threat to Argentina and others, they are entirely defensive in nature: they are surface-to-air missiles with an approximate range of 6,800 metres.

Since the liberation of the Falkland Islands in 1982, the United Kingdom has never attacked or threatened the Republic of Argentina or any country in the region. Nor does it have any intention to do so. On the contrary, the United Kingdom values greatly its strong relationships with regional partners based on mutual understandings, including through peaceful military visits and joint exercises. The United Kingdom's military presence in the Falkland Islands equates to approximately 0.5 per cent of the United Kingdom's overall annual defence budget. This has not changed and is a small price to pay when compared with the importance the United Kingdom attaches to upholding, respecting and defending one of the key principles of the Charter of the United Nations and international law.

The United Kingdom has the inherent right to defend itself in accordance with Article 51 of the United Nations Charter. The United Kingdom has regularly rotated

military aircraft and naval vessels into the Falkland Islands for the last 30 years. As part of the United Kingdom's defence posture, specific assets are routinely and regularly replaced and updated. There is nothing unusual or exceptional in this. The United Kingdom has never violated the Republic of Argentina's airspace with its Typhoon aircraft, as the Republic of Argentina now alleges. The June 2010 incident, referred to by the Republic of Argentina, was caused by a rapid deterioration in weather which meant it was unsafe for the Typhoons to land in the Falkland Islands. The United Kingdom contacted the relevant authorities and gained the necessary overflight permissions from Argentina and Chile to land the aircraft in Chile. We remain very grateful to both the Argentine Air Force and the Chilean Air Force for their rapid response, which ensured that this emergency was resolved swiftly with no risk to life.

The effective cooperation and coordination shown by the Typhoon emergency is a genuine example of the relationship that the United Kingdom would like to have on a permanent basis with the Republic of Argentina. The United Kingdom used to communicate regularly with the Republic of Argentina on South Atlantic issues under the confidence-building measures set out in various Joint Statements of 1990-1994. Since Néstor Kirchner and, later, Cristina Fernández de Kirchner took office, the Republic of Argentina has withdrawn from the last remnants of those discussions, including programmes of bilateral military contacts in 2008. If the Republic of Argentina had accepted one of the United Kingdom's repeated offers to resume these discussions on confidence-building measures and issues of mutual interest, then perhaps its assessment of the United Kingdom's military assets and posture in the South Atlantic might have been more accurate. The last offer of discussions the United Kingdom made was in 2010. The Republic of Argentina did not respond. The United Kingdom's defence and military posture has not changed; it is disappointing that the political and diplomatic posture of the Republic of Argentina appears to have.

The United Kingdom continues to believe that there are many opportunities for cooperation in the South Atlantic. However, in recent years the Republic of Argentina has:

- Withdrawn from cooperation on the South Atlantic Fisheries Commission and extended its fishing seasons in Argentine waters, thus endangering the long-term sustainable management of straddling fish stocks in the South Atlantic, in contravention of article 63 of the United Nations Convention on the Law of the Sea;
- Repudiated the 1995 Joint Declaration on Hydrocarbons, which had provided for cooperation in a Special Cooperation Area that straddled both Argentine and Falkland Islands waters;
- Placed a ban on charter flights travelling through Argentine airspace to the Islands in 2003;
- Introduced domestic legislation to penalize companies that wish to do business in or with the Falkland Islands;
- Introduced a Presidential Decree in 2010 that does not comply with the freedom of navigation nor right of innocent passage provided for by international law, including the United Nations Convention on the Law of the Sea;

- Threatened, at the United Nations in September 2011, to withdraw from the 1999 United Kingdom-Republic of Argentina Joint Statement; this 1999 Joint Statement had allowed Argentine passport holders to enter the Falkland Islands for the first time since the 1982 conflict and had provided for the resumption of the Falkland Islands' only commercial air link with South America;
- Asked the MERCOSUR region, in December 2011, to support a declaration denying access to their ports to Falkland Islands flagged vessels, thus explicitly attempting to restrict trade and threatening the people of the Falkland Islands with economic isolation.

These disturbing developments call into question the commitment of the Republic of Argentina to peaceful cooperation in the South Atlantic and its adherence to binding international law. The Republic of Argentina's unfounded accusations of "militarization" of the South Atlantic are unwarranted and baseless. It calls into question the evidential threshold applied by the Republic of Argentina to all its political claims. The reality of our military footprint in the South Atlantic is clear: the United Kingdom's military posture in the Falkland Islands is defensive and exists only in order to protect the rights and freedoms of the people of the Falkland Islands to determine their own political, cultural and economic futures. In contrast to the position of the Republic of Argentina, the position of the United Kingdom and Falkland Islands Government is firmly based in international law, and in particular on the principle and right of self-determination for all peoples, which constitutes one of the legal foundations of the United Nations.

The Government of the United Kingdom has no doubt about the sovereignty of the United Kingdom over the Falkland Islands or South Georgia and the South Sandwich Islands and their surrounding maritime areas. The principle of self-determination, enshrined in the Charter of the United Nations, underlies our position on the sovereignty of the Falkland Islands. There can and will be no negotiation on the sovereignty of the Falkland Islands unless and until such time as the Falkland Islanders so wish. There is no doubt that the Falkland Islanders wish to remain British and do not want the United Kingdom Government to enter into any negotiations with Argentina about their status.

The Republic of Argentina has enshrined within its own Constitution that the only acceptable future is full Argentine sovereignty over the Falkland Islands. The Republic of Argentina does not seek genuine dialogue, but simply wishes to discuss the terms for a transfer of sovereignty. But neither the United Kingdom nor the Republic of Argentina can negotiate away the principle and right of self-determination for the Falkland Islands people. We should like to remind the Republic of Argentina of their international legal obligations to respect the principle and right of self-determination for all peoples, as respectively set out under the United Nations Charter (Article 1.2), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (common article 1).

I should be grateful if you would have the text of the present letter circulated as a document of the General Assembly, under agenda item 45.

(*Signed*) Mark **Lyall Grant**